

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BRENDA TAYLOR, individually, and as
executor of the Estate of Che Andre Taylor;
CHE ANDRE TAYLOR, JR., individually; and
SARAH SETTLES on behalf of her minor
child, CHE'LYNN MARIE TAYLOR,

Plaintiffs,

v.

CITY OF SEATTLE; MICHAEL SPAULDING
and "JANE DOE" SPAULDING, and their
marital community composed thereof; SCOTT
MILLER and "JANE DOE" MILLER, and their
marital community composed thereof;
TIMOTHY BARNES and "JANE DOE"
BARNES, and their marital community
composed thereof; and AUDI ACUESTA and
"JANE DOE" ACUESTA, and their marital
community composed thereof,

Defendants.

NO. 2:18-cv-00262- JLR

***PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR DAMAGES UNDER
42 USC § 1983***

I. NATURE OF ACTION

1.1 Introduction. This is a civil rights action brought by plaintiffs for excessive
force. This case arises from claims of assault, excessive force, false arrest, unlawful seizure,
tort of outrage, negligence and violation of RCW 49.60.

SECOND AMENDED COMPLAINT FOR DAMAGES

1 Plaintiff pursuant to 42 USC §1983 and the Fourth and Fourteenth Amendment.
2 Fourteenth Amendments against the Defendants and their marital community

3 **II. PARTIES**

4 2.1 Plaintiff, Brenda Taylor, is the executor of the Estate of Che Andre Taylor and
5 at all times relevant was Che Andre Taylor's wife. Brenda Taylor is a resident of King
6 County, Washington.

7
8 2.2 Plaintiff Che Andre Taylor, Jr. is the son of Che Andre Taylor and currently
9 resides in the State of Texas.

10 2.3 Plaintiff Sarah Settles is the mother of Che'Lynn Marie Taylor, minor.
11 Che'Lynn Marie Taylor is the daughter of Che Andre Taylor. Sarah Settles and Che'Lynn
12 Marie Taylor reside in King County, Washington.

13
14 2.4 Defendant City of Seattle. Defendant City of Seattle (City) is a municipality
15 within the State of Washington and employed the police officers that responded to the
16 February 21, 2016 incident involving Che Andre Taylor. The civil rights violations
17 delineated herein were proximately caused by its customs, policies and usages. Here, the City
18 is liable for intentional torts or negligence under goes further than the theory of *respondent*
19 *superior* if the employee was acting in the scope and course of employment. The City of
20 Seattle's customs and officers giving conflicting commands, decedent attempting to comply
21 with the conflicting commands by putting his hands up in the air and then attempting to drop
22 them to the ground, officers shooting decedent thereafter within seconds after approaching
23 decedent meets the Monell claims as policy or custom of giving conflicting commands and
24 shooting and killing an individual within seconds is deficient, it caused great harm to the
25
26

1 Plaintiffs, and it could be viewed that the policy/custom amounted to deliberate indifference.
2 Whether the City had proper training, procedure, and policies in place for its officers on how
3 to handle similar situations prior to resorting to shooting and killing citizens, as Che Andre
4 Taylor, will be proven after discovery is concluded and at trial.

5 2.5 Defendant Michael Spaulding. At all times relevant, Michael Spaulding was
6 employed as law enforcement by the Seattle Police Department and was acting within the
7 course and scope of his employment with the City of Seattle and under color of law. All of
8 Michael Spaulding's acts alleged herein was taken for the benefit for the City of Seattle and
9 his marital community.
10

11 2.6 Defendant Scott Miller. At all times relevant, Scott Miller was employed as
12 law enforcement by the Seattle Police Department and was acting within the course and scope
13 of his employment with the City of Seattle and under color of law. All of Scott Miller's acts
14 alleged herein was taken for the benefit for the City of Seattle and his marital community.
15

16 2.7 Defendant Timothy Barnes. At all times relevant, Timothy Barnes was
17 employed as law enforcement by the Seattle Police Department and was acting within the
18 course and scope of his employment with the City of Seattle and under color of law. All of
19 Timothy Barnes' acts alleged herein was taken for the benefit for the City of Seattle and his
20 marital community.
21

22 2.8 Defendant Audi Acuesta. At all times relevant, Audi Acuesta was employed
23 as law enforcement by the Seattle Police Department and was acting within the course and
24 scope of his employment with the City of Seattle and under color of law. All of Audi
25 Acuesta's acts alleged herein was taken for the benefit for the City of Seattle and his marital
26

1 community.

2 2.9 Unknown Seattle Police Officer. At all times relevant, the unknown police
3 officers were employed as law enforcement by the Seattle Police Department and was acting
4 within the course and scope of his employment with the City of Seattle and under color of
5 law.
6

7 **III. JURISDICTION AND VENUE**

8 3.1 Jurisdiction. Jurisdiction in this Court is based on the existence of a federal
9 question pursuant to 28 USC §1331 and 1343, in that Plaintiffs assert claims for deprivation
10 of civil rights under 42 USC §1983 for violation of the Fourth Amendments to the United
11 States Constitution.

12 3.2 Venue. Venue for this action is appropriate in this Court because the events
13 giving rise to the claims asserted herein occurred in the Seattle Division of this district and
14 because the plaintiffs and defendants reside in this district.
15

16 **IV. FACTS**

17 4.1 On February 21, 2016 at approximately 4:15 pm, Che Andre Taylor was shot
18 by multiple Seattle Police Officers. Che Andre Taylor was an African American male.

19 4.2 Che Andre Taylor died as a result of the multiple gunshot wounds that he
20 received from the February 21, 2016 shooting.
21

22 4.3 Prior to the shooting, Che Andre Taylor was standing in the doorframe of a
23 white motor vehicle talking to people inside the vehicle.

24 4.4 Officers Michael Spaulding and Scott Miller were observing Che Andre Taylor
25 in an undercover capacity prior to the shooting. Officers Spaulding and Miller were watching
26

1 Che Andre Taylor from an undercover vehicle.

2 4.5 Based upon their perceived observations, Officers Spaulding and Miller chose
3 to approach and attempt to arrest Che Andre Taylor.

4 4.6 Officers Spaulding and Miller chose to approach Che Andre Taylor with long
5 rifles because of the stopping power of these particular firearms.

6 4.7 Officers Spaulding and Miller were wearing black tactical jackets at the time
7 that they chose to approach and attempt to arrest Che Andre Taylor.

8 4.8 At the time that Officers Spaulding and Miller began to approach Che Andre
9 Taylor, a marked Seattle Police vehicle began to approach the scene.

10 4.9 Officers Barnes and Acuesta were in the marked Seattle Police vehicle that
11 was approaching the scene.

12 4.10 The marked Seattle Police vehicle that Officers Barnes and Acuesta were
13 present at the time, date, and location of the incident.

14 4.11 In the video, Officers Spaulding and Miller can be seen quickly approaching
15 the vehicle that Che Andre Taylor was standing in with their guns drawn.

16 4.12 In the audio recording, multiple police officers can be heard simultaneously
17 giving Che Andre Taylor, including Officer Barnes, Acuesta, Spaulding and Miller. The
18 commands given to Che Andre Taylor were not consistent.

19 4.13 Some of these police officers can be heard yelling at Che Andre Taylor to put
20 his hands up while other police officers can be heard yelling at Che Andre Taylor to get on
21 the ground, the commands given by the officers -Offices Spaulding, Miller, Barnes and
22 Acuesta- were inconsistent and incompatible commands that conflicted with the other
23
24
25
26

1 commands given by the other officers present, which created a chaotic and disorganized
2 environment for the Che Andre Taylor by these officers. These officers were shouting and
3 ordering the decedent conflicting orders which was confusing the decedent. The officers'
4 voices were captured in the audio and video of the incident as these officers' were present and
5 involved in creating this disorganized and dangerous situation. The officers, as trained policer
6 officers by the City of Seattle, have a duty that they owe to all citizens, including Che Andre
7 Taylor not to create a chaotic scene in which conflicting orders are given, confusing the
8 decedent, and eventually leading to him being shot multiple times and dying. All officers
9 own a duty to civilians, including Che Andre Taylor to serve and protect them and to give
10 orderly commands that can and should be followed, not commands that hat would endanger
11 the public in general. When the officers gave their instructions and gave verbal commands to
12 the decedent, which were conflicting and confusing orders, they breached their duty to him
13 and thereby created a dangerous situation that led to Che Andre Taylor being shot and killed.

16 4.14 The police officer commands to Che Andre Taylor were being yelled at Che
17 Andre Taylor from different directions with multiple differing commands. Plaintiffs believe it
18 was the City of Seattle's custom and practice that trained and reinforced the officers- Officer
19 Spaulding, Miller, Barnes, and Acuesta – to given conflicting and contrary commands to a
20 Che Andre Taylor, which led to him being shot multiple times and ultimately dying.

22 4.15 Che Andre Taylor can be seen on the video attempting to comply with the
23 simultaneous and conflicting and opposing commands of the police officers.

24 4.16 Che Andre Taylor first puts his hands in the air and then attempts to drop to the
25 ground as instructed by the police officers.

1 4.17 Che Andre Taylor was shot by Officers Spaulding and Miller within seconds
2 of their approach of Che Andre Taylor.

3 4.18 After shooting Che Andre Taylor, police officers rolled his body over and
4 handcuffed him.

5 4.19 Critical minutes lapsed between the time in which Che Andre Taylor was shot
6 and the time that police officers allowed medical emergency personnel to render aid.
7

8 4.20 Shortly after Che Andre Taylor was shot, Seattle Police Officers began to turn
9 their attention to the other individuals in the vehicle that Che Andre Taylor had been standing
10 by.

11 4.21 Seattle Police Officers commanded the remaining individuals in the car to get
12 out of it.

13 4.22 The passenger in the back seat of the vehicle that Che Andre Taylor was
14 standing by and had difficulty following the command given by the police officers. The
15 passenger in the back seat was a white female. First, the police officer instructed her to exit
16 the vehicle out of the back door that is on the driver side. Rather than going to the driver side
17 back door, she lunged toward the passenger side door. The backseat passenger also failed to
18 comply with the officer commands when she initially got out of the vehicle. Police officers
19 did not shoot her.
20

21 4.23 The driver of the white vehicle was a white male. Police officers paid little to
22 no attention to his actions or movements at the time that they approached Che Andre Taylor.
23

24 4.24 Che Andre Taylor was ultimately shot and killed while attempting to comply
25 with conflicting police officers' commands.
26

1 4.25 Che Andre Taylor was denied the ability to comply with the police officers'
2 commands as they were inconsistent to him.

3 4.26 As a result of the actions of the police officers in this incident, Che Andre
4 Taylor was denied due process of law.

5 6 7 8 V. CAUSES OF ACTION

9 5.1 First Cause of Action. By virtue of the facts set forth above, the defendants are
10 liable to all plaintiffs for damages for negligence. The claim for negligence arises out of the
11 duty owed to decedent Che Taylor by the city and by extension the police officers who shot
12 and killed him. The duty is breached when the officers chose to shoot and killed Che Taylor,
13 and but for the negligence or action of the officers and their employee the city, Che Taylor
14 would have been still alive. Thus, the elements of negligence are met. Specifically
15 and further, in Washington, the public duty doctrine defines under which a governmental
16 entity may owes a statutory or common law duty to particular member of the public, namely,
17 (i) legislative intent, (ii) failure to enforce, (iii) the rescue doctrine, or (iv) a special
18 relationship.
19

20 5.2 Second Cause of Action. By virtue of the facts set forth above, the defendants
21 are liable to all plaintiffs for the tort of outrage. Brenda Taylor as a wife and executor of the
22 estate of Che Andre Tylor claims outrage based the fact that Defendants officers Spalding and
23 Miller shot decedent multiple times, he suffered before he died and several officers shouting
24 inconsistent, confusing and conflicting orders before he was eventually killed. Defendants
25
26

1 actions were not only reckless, but intentional, as they gave opposing commands that Che
 2 Andre Taylor could not comply with and then fired shots at him, knowing they could kill him
 3 thereby causing emotional distress to Che Andre Taylor. The decedent had suffered injury
 4 and pain before he died as a result of bullets raining on him from many officers prior to
 5 eventually pronounced dead.

6
 7 5.3 Third Cause of Action. By virtue of the facts set forth above, the defendants
 8 are liable to all plaintiffs for false arrest.

9 5.4 Fourth Cause of Action. By virtue of the facts set forth above, the defendants
 10 are liable to all plaintiffs for unlawful seizure.

11 5.5 Sixth Cause of Action. Per RCW 49.60.030, the defendants are liable to the
 12 plaintiffs for violation of the plaintiffs' civil rights to the right to be free from discrimination
 13 because of race, creed, color, national origin, sex, honorably discharged veteran or military
 14 status, sexual orientation, or the presence of any sensory, mental, or physical disability or the
 15 use of a trained dog guide or service animal by a person with a disability is recognized as and
 16 declared to be a civil rights.
 17

18 5.6 42.U.S.C. §1983. By virtue of the facts set forth above, all defendants are liable
 19 for compensatory and punitive damages for deprivation of civil rights of plaintiff Brenda
 20 Taylor, guaranteed by the Fourteenth Amendments of the constitution of the United States
 21 and 42 U.S.C. §1983 to be free from their liberty interest in a familial relationship with her
 22 husband, Che Andre Taylor, without due process of law.
 23

24 5.7 42.U.S.C. §1983. By virtue of the facts set forth above, all defendants are liable
 25 for compensatory and punitive damages for deprivation of civil rights of Che Andre Taylor's
 26

1 children, guaranteed by the Fourteenth Amendments of the constitution of the United States
2 and 42 USC §1983 to be free from their liberty interest in a familial relationship with their
3 father, Che Andre Taylor, without due process of law.
4

5 WHEREFORE, Plaintiffs pray for the following relief:
6

- 7 1. Compensatory damages and punitive damages in an amount to be proven at
8 trial. Plaintiffs seek punitive damages against all defendants;
9 2. For reasonable attorneys' fees and costs; and
10 3. For such other and further relief as the Court deems just and equitable.

11 Dated this 18th day of December, 2018.
12

13 JAMES BIBLE LAW GROUP

14 /s/ James Bible
15 JAMES BIBLE, WSBA #33985
16 Attorney for Plaintiffs

17 LAW OFFICES OF SHAKESPEAR N. FEYISSA

18 /s/ Shakespear Feyissa
19 SHAKESPEAR N. FEYISSA, WSBA #33747
20 Attorneys for Plaintiffs

21 VALDEZ LEHMAN, PLLC

22 /s/ Jesse Valdez
23 JESSE VALDEZ, WSBA #35378
24 Attorneys for Plaintiffs
25
26

SECOND AMENDED COMPLAINT FOR DAMAGES